

MEMORANDUM OF AGREEMENT  
BETWEEN  
HEADQUARTERS, U.S. ARMY CORPS OF ENGINEERS (HQUSACE)  
AND  
OFFICE OF THE CHIEF, ARMY RESERVE (OCAR)

1. PURPOSE AND AUTHORITY.

a. The purpose of this memorandum of agreement (MOA) is to establish and implement policies and procedures for enhanced support to the U.S. Army Reserve (USAR) by the Headquarters, U.S. Army Corps of Engineers (HQUSACE) and, in particular, its District at Louisville, KY (office symbol: CEORL). This MOA provides the framework and designation for CEORL to be the point of contact for USACE management and coordination of USAR military construction projects and related real estate actions. CEORL will operate within constraints imposed by HQUSACE and the Office of the Chief, Army Reserve (OCAR), which is the program manager. HQUSACE, as used in this MOA specifically refers to the Headquarters, U.S. Army Corps of Engineers. USACE, as used in this MOA refers to HQUSACE, its Major Subordinate Commands (MSC'S), or its Districts. OCAR, as used in this MOA refers to the Office of the Chief, Army Reserves. This MOA supersedes the two previous Memorandums of Agreement, between HQUSACE and the Army Reserves, which are hereby rescinded.

b. Pursuant to Army Regulation 10-5, Organization and Functions, Headquarters, Department of the Army, paragraph 2-38, the Office of the Chief, Army Reserve (OCAR), is program manager and appropriation director for all appropriations which support USAR functions and operations. HQUSACE and OCAR enter into this MOA pursuant to the Economy in Government Act, 31 U.S.C. 1535.

2. BACKGROUND. Prior to fiscal year 1991, the Army Reserve's annual construction program typically had more than twenty projects. Project designs were done by conventional means through USACE geographic districts. Project managers at OCAR dealt with as many as sixteen engineer districts for these twenty projects. Two significant changes have occurred, which require revisions in the way USACE supports the Army Reserve. First, the USAR major construction program has been reduced to about eight projects per year. Second, the Modular Design System (MDS), a PC-based design software package being developed by CEORL for OCAR, will standardize USAR facility design parameters and reduce project design time from years to months. The efficiency achieved by centralized management of this small, streamlined program will benefit the Government in savings of time and money.

3. SCOPE. The scope of this MOA is to provide timely completion of all requirements affecting project award schedules and expenditure of funds for the Military Construction, Army Reserve (MCAR) Program. CEORL will be the design agent, utilizing the

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MDS for all programmed USAR MCAR designs, and the point of contact for management of all related real estate and environmental actions. Funding and accomplishing associated environmental documentation for real estate actions remain the responsibility of the U.S. Army Reserves. Coordination of environmental actions, as they impact execution of the MCAR program, must be made between the U.S. Army Reserves and the appropriate military installation and Military Geographic District. Military Geographic Districts will continue to be the construction and real estate agents. If workload precludes the timely completion of real estate actions, HQUSACE and OCAR shall ensure that the work is completed by another district. The Military Geographic Districts will provide progress reports and funds accountability to CEORL, which will submit reports to OCAR and HQUSACE. CEORL will centrally coordinate all real estate actions for MCAR projects under one management plan.

4. INTERAGENCY COMMUNICATIONS.

a. OCAR-HQUSACE. OCAR will submit requests for new project designs to HQUSACE (CEMP-MD) with copies to CEORL. HQUSACE will issue initial directives to authorize subsequent actions by CEORL and coordination between CEORL and other USACE commands. OCAR will submit requests for real estate actions to HQUSACE (CERE-AM) with copies to CEORL-RE. CEORL will submit cost estimates, timelines, planning reports, and any other pertinent Real Estate documents to OCAR for approval with copy to HQUSACE. If approved, HQUSACE will issue directives to execute real estate actions in support of the MCAR program.

b. OCAR-CEORL. Once directives are issued, direct coordination between OCAR and CEORL is authorized for all MCAR design and real estate acquisition program (REAP) projects. All official correspondence and taskings to CEORL by OCAR (and CEORL's responses) must be in writing with copies furnished to the appropriate offices at HQUSACE and other USACE commands involved in the actions.

5. RESPONSIBILITIES.

a. OCAR. Program management of the Military Construction, Army Reserve (MCAR) program is the responsibility of the OCAR Engineer Office (DAAR-EN). It will identify and initiate specific project design, construction, and real estate actions as well as provide the required scope (DD Form 5034R, DD Form 1390/91) and other relevant documents. OCAR will provide project funds and other funds as required to support this MOA. OCAR will

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also coordinate with HQUSACE to ensure appropriate work years are assigned to CEORL to perform actions required under this MOA.

b. HQUSACE. HQUSACE will ensure functional coordination between OCAR, Ohio River Division (CEORD), CEORL, and other USACE commands. General responsibilities will include overall program management of the MCAR program assigned to USACE; issuance of policy and guidance for project management, engineering, construction, and financial management; issuance of directives for design, construction, and real estate actions; issuance of funds required for project actions and other funds as required to support the requirements of this MOA; and allocation of military funded civilian manpower, end-strength and FTE as supported by CERAMMS and USACE budgeted resource authority to CEORL to perform actions required under this MOA.

c. Ohio River Division (CEORD). CEORD will provide guidance and assistance to CEORL on activities outlined in this MOA.

d. Louisville District (CEORL). CEORL's functions will vary by category of work, as described below. In addition CEORL shall be required to submit the required work years of effort, prior to the beginning of each fiscal year, through CEORD to HQUSACE for appropriate action.

(1) MILITARY CONSTRUCTION. CEORL will be project manager and design agent for all MCAR projects. The Military Geographic districts will continue to be the construction agents. In addition, CEORL will perform the following management functions to support OCAR:

- Determine how and by whom project design will be done.
- Request, and manage design funds.
- Perform technical reviews of all designs for OCAR.
- Monitor and report project statistics and schedules.
- Coordinate real estate, environmental, design, and construction actions with geographic districts.
- Monitor construction progress and funding actions.
- Monitor, record, and implement lessons learned during design, acquisition, construction, and warranty activities.
- Coordinate designs with Real Estate Division to ensure that adequate real estate interests are acquired to support construction and use of MCAR projects.

(2) REAL ESTATE. CEORL will be project manager for the USAR real estate acquisition program (REAP). It will manage all

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real estate actions required for MCAR projects. These include current actions as well as ones initiated after the effective date of this MOA. Geographic districts will continue to be the real estate agents. CEORL will be the technical reviewer of all REAP actions performed by the geographic districts. Specific CEORL responsibilities include:

- Coordinate real estate actions as part of overall project management plans.
- Monitor requirements for and expenditure of funds for MCAR-related real estate actions, including release of funds by HQUSACE to military geographic districts.
- Oversee the development of standard operating procedures for real estate activities.
- Recommend and implement process improvements for real estate actions with HQUSACE and OCAR approval.
- Coordinate update of USAR real estate inventory in the USAR EMAAR and the USACE REMIS programs when real estate actions result in change to the inventory.
- Verify programmed REAP actions meet requirements of MCAR projects.
- Provide reports to HQUSACE and OCAR on priorities, schedules and resources for the REAP.
- Coordinate boundaries, estates and outstanding interests with engineering and construction divisions to ensure that adequate real estate interests are acquired to support construction and use of projects.

(3) ENVIRONMENTAL COMPLIANCE. CEORL will monitor required environmental actions associated with land acquisitions in support of MCAR projects. Additionally, when requested, CEORL will develop or assist in specific programs and projects to resolve other environmental issues as requested by OCAR and approved by HQUSACE. CEORL will coordinate environmental requirements with appropriate Corps Centers of Expertise, military geographic districts and/or Installations, when requested.

(4) REAL PROPERTY MAINTENANCE ACTIVITIES (RPMA). CEORL will be project manager for all RPMA (OMAR funded) actions associated with MCAR projects, such as the procurement of caging, certain kitchen equipment items, and metal shelving. Additionally, when requested, CEORL will develop procurement strategies for standardized maintenance items associated with mass procurement efforts of the Modular Design System program. CEORL will provide this service on an as-needed basis, when requested and funded by OCAR.

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(5) CONTRACTING ACTIVITY. CEORL will be responsible for all contract activities associated with design agent functions by CEORL. Contract actions will include, but not be restricted to, activities associated with project designs using the MDS and subsequent construction contract awards. Construction awards may be conducted by the appropriate Military Geographic District if determined more beneficial to the project. CEORL-CT will transfer contracting authority to the appropriate Military Geographic District after award of the construction contract for those contracts awarded by CEORL. The Military Geographic District will be responsible for all contract actions related to assigned design taskings within their district boundaries.

e. Military Geographic Districts. Military Geographic Districts remain the construction and real estate agents, performing supervision and administration of these functions. They will complete projects and actions within scope, schedule, and budget as approved by OCAR and coordinated with CEORL. These districts will provide CEORL with information needed to monitor progress and generate reports to be submitted to OCAR and HQUSACE, and will provide information copies to HQUSACE and BASOPS ARCOM Engineers.

6. FUNDING.

a. OCAR shall provide all funds to support CEORL's administrative costs for execution of the work required under this MOA through direct electronic transfer to HQUSACE. Initial funding for administrative costs for the remainder of the current fiscal year shall be forwarded to HQUSACE upon execution of this MOA. HQUSACE shall issue funds by electronic transfer to CEORL. Sufficient funding authority must be in place in CEORL each fiscal year to assure continuance of operation.

b. For real estate actions associated with this MOA, administrative funding will be provided by OCAR to HQUSACE, who in turn will transfer the funds as directed by CEORL, to the appropriate district. The BASOPS ARCOM engineers will coordinate with CEORL-RE in establishing administrative cost estimates for real estate actions to be accomplished under this MOA when preparing the Facility Work Plan.

c. On or about February of each year, CEORL shall prepare an annual operating budget for the upcoming fiscal year that details by project, and other activities, the amount(s) of obligational authorities it and the performing districts will need to satisfy

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the terms of this MOA. This budget shall be staffed through CEORD and HQUSACE, and forwarded to OCAR for approval. OCAR can make changes to the approved operating budget through coordination with HQUSACE and CEORL.

d. Funding for specific project actions shall be issued for direct support of that project by OCAR at the time of issuance of the appropriate design directive. If the forecasted costs for any project covered under this MOA exceeds the amount of funds provided by OCAR for that project, CEORL, in coordination with HQUSACE, shall promptly notify OCAR of the amount of additional funds necessary to complete the project. OCAR shall either provide the additional funds to HQUSACE, by electronic transfer, or require that the scope of work be limited to that which can be accomplished with available funds, or direct termination of the project.

e. Within 90 days of completion of a project, CEORL shall conduct an accounting action to determine the actual cost of the project. Within 30 days of completing this accounting action, CEORL shall return to OCAR, through HQUSACE, any funds advanced in excess of the actual cost. OCAR shall provide any additional funds necessary to cover the actual cost as they are known. Such an accounting shall in no way limit OCAR's duty in accordance with paragraph 9 (Liability) to pay any cost, such as contract claims or other liability, which may be known after the accounting action has been completed.

7. APPLICABLE LAWS, REGULATIONS AND GUIDANCE. This MOA and all documents and actions pursuant to it shall be governed by the applicable statutes, regulations, directives, and procedures of the United States. Unless otherwise required by law, all contract work undertaken by HQUSACE, any major subordinate command (MSC), CEORL, or designated district shall be governed by DA policies and procedures. The following regulations and guidance shall be used to perform those actions necessary to support the requirements of this MOA:

- a. AR 37-1, Financial Administration
- b. AR 140-483, Army Reserve Land and Facilities Management
- c. AR 200-1, Environmental Protection and Enhancement
- d. AR 200-2, Environmental Effects of Army Actions
- e. AR 405-10, Acquisition of Real Property and Interests

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Therein

- f. AR 405-70, Utilization of Real Estate
- g. AR 405-80, Granting Use of Real Property
- h. AR 405-90, Disposal of Real Property
- i. Modular Design System (MDS) Software Program (under development)
- j. Standard Operating Procedures (SOP), for Real Estate Activities (under development)
- k. AR 415-15, Military Construction, Army (MCA) Program Development
- l. AR 420-10, Management of Installation Directorates of Engineering and Housing

8. CLAIMS AND DISPUTES.

a. The parties, OCAR and HQUSACE, agree that, in the event of a dispute between the parties, OCAR and HQUSACE shall use their best efforts to resolve that dispute in an informal fashion through consultation and communications, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties. The parties agree that, in the event such measures fail to resolve the dispute, they shall refer it for resolution to the signatories of this MOA. If resolutions cannot be reached at this level, the dispute shall be referred to the next higher level as may be appropriate, such as HQDA.

b. All claims submitted by contractors arising under or relating to contracts awarded and administered by USACE shall be resolved in accordance with United States law and the terms of the individual contract. USACE shall have dispute resolution authority for these claims. Any contracting officer's final decision pursuant to such a claim may be appealed by the contractor pursuant to the Contract Dispute Act of 1978 (41 U.S.C. 601-613). USACE will offer OCAR an opportunity to comment on any litigation proceedings. USACE shall be responsible for litigating all disputes and appeals through the proper channels. USACE shall request from OCAR any funds required for litigation proceedings. OCAR shall also provide such funds as necessary to pay the costs of meritorious claims or appeals.

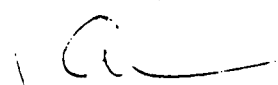
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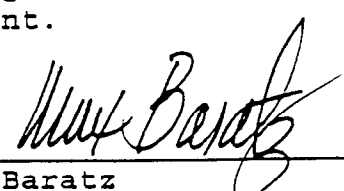
9. LIABILITY. If liability of any kind is imposed on the United States relating to USACE's provision of goods or services under this MOA, USACE will accept accountability of its actions, but OCAR shall remain responsible as the program proponent for providing such funds as are necessary to discharge the liability, and all related costs.

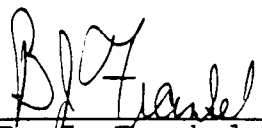
10. PUBLIC INFORMATION. Justification and explanation of OCAR programs before Congress and other agencies, departments, and offices of the Federal Executive Branch shall be responsibility of OCAR. USACE may provide, upon request, any assistance necessary to support OCAR's justification or explanations of the OCAR programs conducted under this MOA. USACE or its Military Geographic Districts will make public announcements and respond to inquiries relating to the ordinary procurement and contract award and administration process.

11. EFFECTIVE DATE, AMENDMENT, AND TERMINATION. This MOA becomes effective upon signature. The effective period of this MOA is indefinite. Either party to this MOA can propose amendments or revisions at any time. As a routine, this MOA will be reviewed annually in order to keep the agreement current. Amendments will be incorporated upon mutual consent. This MOA may be terminated by either party by providing written notice six months prior to the proposed effective date of the termination. Termination of this MOA will not interrupt any effort previously agreed to under this MOA, unless agreed by both parties. In the event of termination, OCAR shall continue to be responsible for all costs incurred by USACE, or its agents under this MOA, and for the costs of closing out or transferring any ongoing contracts.

AGREEMENT SIGNATURES. The undersigned agree to follow the provisions of this Memorandum of Agreement.

 8/11/94  
Pat M. Stevens, IV Date  
Major General, USA  
Director of Military Programs

 8/12/94  
Max Baratz Date  
Major General, USA  
Chief, Army Reserve

 8/12/94  
B. J. Frankel Date  
Director of Real Estate